

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

GARY ALEXANDER MULLEN,

*

Plaintiff,

*

v.

*

Civil Action No. PJM-20-0159

STACY P. CRAIG,

*

Defendant.

*

MEMORANDUM OPINION

Plaintiff Gary Alexander Mullen filed the above-captioned Complaint together with a Motion for Leave to Proceed in Forma Pauperis. ECF Nos. 1, 2. Because Plaintiff appears indigent, the Motion shall be granted. For reasons stated below, however, the Complaint shall be dismissed.

Plaintiff filed this Complaint in forma pauperis pursuant to 28 U.S.C. § 1915(a)(1), which permits an indigent litigant to commence an action in this Court without prepaying the filing fee. To guard against possible abuses of this privilege, the statute requires dismissal of any claim that is frivolous, malicious, or fails to state a claim on which relief may be granted. 28 U.S.C. § 1915(e)(2)(B)(i) and (ii). When considering whether a claim is frivolous, § 1915(e)(2) grants courts “the unusual power to pierce the veil of the complaint’s factual allegations and dismiss those claims whose factual contentions are clearly baseless.” *Neitzke v. Williams*, 490 U.S. 319, 327 (1989). A complaint is frivolous where “it lacks an arguable basis either in law or in fact.” *McLean v. United States*, 566 F.3d 391, 399 (4th Cir. 2009) (quoting *Neitzke*, 490 U.S. at 327).

The Court now reviews the Complaint (ECF No. 1) and the Attachments to the Complaint (ECF No. 1, Attachments 2-8). In sum, Plaintiff alleges that Defendant is in adverse possession

of his property located at 1602 Lochwood Road, Baltimore, Maryland. Plaintiff describes the Defendant as having “apparent color of law color of title possession and residence at the subject property...” Plaintiff cites to the United States Constitution, the Bill of Rights, Federal Rule of Civil Procedure 57 and the Judiciary Act of 1789 as the basis for this Court’s jurisdiction. The Complaint contains minimal facts and consists primarily of disjointed citations to references that include cases, treatises, land grant charters, patent rights and the Common Law of England. Additionally, Plaintiff has filed with the Court documents that include UCC Financing Statements, Demands for Debt Validation and Notices of Default. ECF No. 1, Exhibits Nos. D, E, F, G. Plaintiff is seeking declaratory and permanent injunctive relief voiding Defendant’s claim to possession of the property and recognizing Plaintiff’s “superior title and claim.” ECF No. 1.

Plaintiff previously filed an action in this Court challenging a foreclosure on the same piece of property that is the subject of this action. *See Mullen v. U.S. Bank National Assoc.*, JFM-15-2640. Documents submitted in that matter indicate the property was the subject of a foreclosure action in the Circuit Court for Baltimore City, *Ward v. Mullen*, Case No. 24013001619. ECF No. 7-1. Further, documents filed in the prior federal action indicate that the Circuit Court ratified the foreclosure sale on May 12, 2014 and Plaintiff did not file an appeal. *Id.* This Court dismissed the prior federal action on res judicata grounds finding “it is clear that he [Plaintiff] could have raised all the claims in the mortgage foreclosure proceeding which was conducted in the Circuit Court for Baltimore City.” *Id.*, ECF Nos. 14, 15. This Court’s Order in the prior action was affirmed on appeal. *Id.*, ECF No. 26.

The property in question in this action was disposed of by the foreclosure action in the Circuit Court for Baltimore County. Plaintiff lost title to the property through the foreclosure. Plaintiff’s claims that he is now entitled to regain possession of the property from the present title

holder, the Defendant, are not supported in any way by Plaintiff's Complaint. Plaintiff has not stated a claim for relief and this action is frivolous.

Accordingly, the Motion to Proceed in Forma Pauperis will be granted and the Complaint will be dismissed with prejudice. A separate Order follows.

Dated this 28th day of April, 2020.

/s/
PETER J. MESSITTE
UNITED STATES DISTRICT JUDGE